

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
NORTHERN (JACKSON) DIVISION**

D'MONTERRIO GIBSON

PLAINTIFF

v.

CIVIL ACTION NO.: 3:23-CV-00054-DPJ-FKB

**FEDERAL EXPRESS CORPORATION;
CITY OF BROOKHAVEN, MISSISSIPPI;
CHIEF KENNETH COLLINS, in His Individual
and Official Capacities; BRANDON CASE;
and GREGORY CASE**

DEFENDANTS

**DEFENDANTS CITY OF BROOKHAVEN, MISSISSIPPI AND
CHIEF KENNETH COLLINS' MOTION TO STAY**

COME NOW, Defendants, City of Brookhaven, Mississippi, and Chief Kenneth Collins, in his Individual and Official Capacities, by and through counsel, and respectfully move this Court for a stay of this proceeding pending Defendants' Motion to Dismiss [**Doc. 12**] and would state to the Court as follows, to-wit:

I. BACKGROUND

Plaintiff D'Monterrio Gibson filed this lawsuit against Defendants City of Brookhaven, Mississippi, and Chief Kenneth Collins, in his Individual and Official Capacities. Defendants have now filed a Motion to Dismiss based on lack of jurisdiction. *See* [**Doc. 12**].

II. AUTHORITY

Defendants City of Brookhaven, Mississippi, and Kenneth Collins, in his Individual and Official Capacities have moved to dismiss all the claims against them, including (1) state law claims of civil assault and battery against Chief Kenny Collins; (2) state law claims of Negligent/Intentional Infliction of Emotional Distress against both Defendants; and, (3) "Civil" Obstruction against Chief

Kenny Collins. A stay is proper under *L. R. 16(b)(3)(B)* as the Defendants have invoked a lack of jurisdiction. Moreover, a stay now will save judicial resources and time and un-necessary legal expense, as this matter may fully be resolved on this motion without the need for discovery. For this additional reason, a stay in this matter is appropriate.

Given the nature of this request, Defendants ask that any requirement of a separate memorandum in support be waived.

WHEREFORE, DEFENDANTS RESPECTFULLY PRAY that the Court stay this proceeding pending ruling on the Defendants' Motion to Dismiss [**Doc. 12**].

RESPECTFULLY SUBMITTED this the 21st day of March, 2023.

JACKS | GRIFFITH | LUCIANO, P.A.

By: /s/ **Bethany A. Tarpley**
Bethany A. Tarpley, MS Bar No. 104134
Attorney for Defendants City and Collins

Of Counsel:

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CERTIFICATE OF SERVICE

I, Bethany A. Tarpley, attorney of record for Defendants City and Collins, do hereby certify that I have this day caused a true and correct copy of the above and foregoing *Motion to Stay* to be delivered by the ECF Filing System which gave notice to the following:

Carlos E. Moore, Esq.
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Attorneys for Gregory Case

DATED this 21st day of March, 2023.

/s/ **Bethany A. Tarpley**
Bethany A. Tarpley